

Circuit Court for Anne Arundel County
Case No: 02-K-95-001665

UNREPORTED
IN THE COURT OF SPECIAL APPEALS
OF MARYLAND

No. 1128

September Term, 2018

TYREE KEVIN CRAWFORD

v.

STATE OF MARYLAND

Arthur,
Beachley,
Woodward, Patrick L.
(Senior Judge, Specially Assigned),

JJ.

PER CURIAM

Filed: September 1, 2020

*This is an unreported opinion, and it may not be cited in any paper, brief, motion, or other document filed in this Court or any other Maryland Court as either precedent within the rule of stare decisis or as persuasive authority. Md. Rule 1-104.

Tyree Kevin Crawford filed a motion to correct an illegal sentence in the Circuit Court for Anne Arundel County in which he alleged that his sentence to life imprisonment, all but 40 years suspended, for first-degree murder was illegal because the court had failed to award the proper credit for time served. It appears that the sentence was ordered to run consecutively to a sentence that, unbeknownst to the parties and the court at the time, he now alleges had already been served. The circuit court denied the motion to correct the sentence, ruling that “the sentence itself is not illegal and any issues relating to the calculation of time are not subject to attack as an illegal sentence.” Mr. Crawford noted an appeal of that order, which we stayed pending the Court of Appeals’ decision in *State v. Bratt*, 468 Md. 481 (2020). In *Bratt*, the Court of Appeals stated that “the failure to award credit” is a “procedural defect” that does not render a sentence inherently illegal and, therefore, may not be challenged pursuant to a Rule 4-345(a) motion to correct an illegal sentence. *Id.* at 495-99. Rather, the Court held that “the failure to award credit for time served is an issue resolved by filing a motion [to correct the commitment record] pursuant to Rule 4-351.” *Id.* at 507.

Following the Court’s decision in *Bratt*, the stay of this appeal was lifted and on July 1, 2020, Mr. Crawford filed a supplemental brief in which he maintains that *Bratt* is distinguishable because “the error in his sentence involves more than just the failure to award credit for time served.” He asserts that his sentence “is also illegal because it was made to run consecutive to an expired sentence[.]” In his supplemental brief, appellate counsel noted that Mr. Crawford “was released from prison in 2019.”

We note first that, Mr. Crawford’s sentence to life imprisonment, all but 40 years suspended, to be followed by a five-year period of probation is not, on its face, an inherently illegal sentence because it is undisputedly a sentence authorized by law. Second, we need not decide whether running the sentence consecutive to an expired sentence renders the otherwise perfectly legal sentence inherently illegal for Rule 4-345(a) purposes. Given that he is no longer incarcerated, the issue as to when the sentence commenced - which is pertinent in the calculation of credit for time served and hence the expiration of the sentence - is now moot. *Cottman v. State*, 395 Md. 729, 744 (2006) (“We consider a case moot when there is no longer any existing controversy between the parties at the time that the case is before the court, or when the court can no longer fashion an effective remedy.” (quotation marks and citations omitted)). Any issue as to when Mr. Crawford’s sentence commenced and/or the calculation of how much time he has served on this sentence is a question that will not arise again unless he violates probation and is ordered to serve his previously suspended time. If that occurs, the issue can be addressed at the disposition proceeding in the circuit court.

**APPEAL DISMISSED. COSTS TO BE
PAID BY APPELLANT.**